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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,569	05/25/2006	Kenneth M. Hutton	10577-188	2882
757 7590 04/10/2009 BRINKS HOFER GILSON & LIONE P.O. BOX 10395 CHICAGO, IL 60610				
EXAMINER				
WILSON, GREGORY A				
ART UNIT		PAPER NUMBER		
3749				
MAIL DATE		DELIVERY MODE		
04/10/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/561,569

**Applicant(s)**

HUTTON ET AL.

**Examiner**

Gregory A. Wilson

**Art Unit**

3749

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26, 38 and 41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 6, 7, 14, 15 and 18 is/are allowed.
- 6) ☒ Claim(s) 1, 3-5, 8-11, 16, 17, 19-23, 26, 38 and 41 is/are rejected.
- 7) ☒ Claim(s) 2, 12, 13, 24 and 25 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 December 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-846)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 1/14/09
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to because the detail description of the drawings make reference to Figures 1a, 1b, 2a, 2b and 2c however the drawings are not labeled as such. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

The disclosure is objected to because of the following informalities:

In paragraph [0027] the applicant discloses that a cross-sectional view is taken along line 16-16 of Figure 15 however there is no such section taken,

In paragraph [0039] the applicants recites that "Figure 28 is Figure 27 is a side elevational view...." This is unclear and requires correction,

On page 9, line 10, the applicant recites "Frame assembly 60 includes a pair of opposed side panels 62 defining and right had a left had side panels....." which is unclear and requires correction.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1, 3-5, 8-11, 16, 17, 19, 22, 26, 38 and 41** are rejected under 35 U.S.C. 102(b) as being anticipated by **Holden et al (5,675,863)**. **Holden et al** discloses a frame assembly (20) for a sootblower (10), the sootblower of the type having a lance tube (30) and a carriage (36) which carries the lance tube causing it to be periodically advanced into and retracted from the interior of the combustion device, the carriage of the type having one or more support rollers (54) and a drive pinion gear (76), the support rollers and drive pinion gear being rotatable about a horizontal axes and the drive pinion meshing with a toothed rack (52) for driving the carriage along the frame

assembly, the assembly includes a pair of elongated side panels (SEE Figure 2) of substantially uniform thickness metal material (which is common knowledge in the art) formed to integrally define a first generally horizontal panel track surface (56) which is interpreted as having a reverse bend since it extends inside the frame assembly, a second generally horizontal panel (58) which is a flange that extends inwardly (as a reverse bend) a greater distance than the first track surface (SEE Figure 2) which engage the first track surface to restrain loads primarily acting in the vertical direction, a vertical surface (SEE side surfaces of shroud 20) extending between the first and the second track surfaces, an integrally formed top panel extending between the two vertical side surfaces so as to enclose the carriage, the first track surface, the second track surface and the vertical surface cooperating to define a roller channel (or forming part of the pocket which supports the rollers as per claim 5) extending substantially the entire length of the side panels for supporting the support rollers to roll along the side panels and trap the support rollers within the roller channel, the toothed rack (52) affixed to the second track surface and extending downwardly therefrom and positioned inwardly of the roller channel to trap the support rollers (54) between the toothed rack and the vertical panel side surfaces.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 20, 21 and 23** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Holden et al (5,675,863)**. With regards to claims 20 and 21, Holden discloses the applicants primary inventive concept as stated above including a frame assembly for a sootblower of the type having a lance tube and a carriage which carries the lance tube into the interior of a combustion device however Holden et al does not particularly discuss any coatings or treatments done to the material of the frame assembly. The examiner takes the position that it would have been obvious to a person of ordinary skill in the art to apply a corrosion resistant coating such as a galvanizing coating to the frame assembly since it is common knowledge in the art that supplying a corrosion resistant coating to metal structures protect the structure from environmentally caused degradation over time and thus applying a coating to the frame assembly of Holden et al operating under the conditions that it does would not be inventive. With regards to claim 23, while Holden et al does disclose a first track surface formed by a projecting flange (56), the structure has a square cross-section instead of the applicants claimed round cross-sectional shape. It would have been an obvious matter of design choice to modify the cross-sectional shape of the flange to have a round cross-section, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level or ordinary skill in the art, in addition the applicant has not disclosed that having a round cross-section solves any stated problem or has any criticality to the function of the

frame assembly or is for any particular purpose and it appears that square cross-section of the flange would perform the applicants invention equally well.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sherrick et al (4,803,959) also discloses a frame assembly for a sootblower of the type having a lance tube and a carriage which carries the lance tube into and out of a combustion device (SEE Figure 4).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory A. Wilson whose telephone number is (571)272-4882. The examiner can normally be reached on 7 am - 4:30 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve McAllister can be reached on (571) 272-6785. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gregory A. Wilson/  
Primary Examiner, Art Unit 3749  
April 9, 2009